

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON CORRECTIONS AND PUBLIC SAFETY

Call to Order: By **CHAIRMAN STANLEY FISHER**, on January 25, 2001
at 8:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Rep. Stanley Fisher, Chairman (R)
Rep. Tim Callahan (D)
Sen. Chris Christiaens (D)
Rep. Jeff Pattison (R)
Sen. Debbie Shea (D)
Sen. Tom Zook (R)

Members Excused: Sen. Arnie Mohl, Vice Chairman (R)

Members Absent: None.

Staff Present: Mary Beth Linder, OBPP
Sandra Whitaker, Committee Secretary
Todd Younkin, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Department of Labor and
Industry, Employment Relations
Division with Public
Testimony, 1/22/2001
Executive Action: None

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HEARING ON THE DEPARTMENT OF LABOR AND INDUSTRY

Mr. Mike Foster, Commissioner of Labor, Department of Labor and Industry opened the hearing by giving an overview of the department. He stated the mission of the department is to promote the well being of Montana's workers, employers, and

citizens and to uphold their rights and responsibilities. He assured the committee the department has scrutinized its budget request very closely and is only asking for sufficient funding to accomplish their mission. At the last session, the department was asked to come back with cost savings. He reported the Centralized Services Division Hearings Bureau began a process of streamlining and improving productivity in fiscal year 1998. Following the 1999 session the number of cases filed with the bureau declined due to the enactment of HB 592 which created a mediator process for wage and hour cases and which transferred the jurisdiction for certain cases to the Workers' Compensation Court. This resulted in a reduction of 4 FTE and increased hearing officer productivity at an estimated cost savings of \$156,000. The local job service offices have computers available to the public to assist job seekers in job searches on an internet-only connection saving connectivity charges in the amount of \$84,648 annually. Department training and travel costs have been significantly reduced due to a software program developed for the public's use in career and vocational searches in over 3500 schools nation-wide.

He stated his point of emphasis as Commissioner of Labor will center on work force development which he feels is key to the future of Montana.

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EMPLOYMENT RELATIONS DIVISION

Mr. Jerry Keck, Administrator, Employment Relations Division, distributed information for the committee and gave an overview of the division.

EXHIBIT (jch20a01)

Mr. Keck stated the main focus of the Employment Relations Division is on Workers' Compensation (WC) work and Workers' Compensation claims. There are 3 bureaus--the Workers' Compensation Claims Assistance Bureau which monitors all workers compensation claims; Workers' Compensation Regulation Bureau that deals with all the regulatory oversight of the Workers' Compensation program; and the Safety and Health Bureau which provides workplace safety inspections to help employers achieve safer workplaces and fewer hazards and therefore fewer injuries in the workplace. There are 3 other bureaus which deal with various other duties not related to WC claims. The Labor Standards Bureau deals with wage and hour issues and child labor laws; the Human Rights Bureau investigates complaints of

discrimination; and the Management Services Bureau provides computer support, information technology, and financial and budget support for the division. Administratively attached to the division are the Human Rights Commission and the Board of Personnel Appeals.

Mr. Keck stated in simple terms, the division resolves employment disputes, monitors WC claims, regulates the WC system, performs safety inspections, and provides training. He presented graphs of the Human Rights Bureau showing the intake screening, the open case load, the average processing time, and the funding requests. He is particularly proud of the increased inquiries versus the decreased number of cases filed. He added the average processing time has decreased from 448 days in 1996 and 1997 to 132 in 1998, 1999, and 2000. He stressed the division is not asking for any additional general fund money in 2002 and 2003 beyond what was spent in fiscal 2002; however, it does make permanent the 14.5 FTE's that have been in the program for the last 3 years, and is still an overall reduction of 1.5 FTE's from 1997 prior to SB 350.

EXHIBIT (jch20a02)

In the Labor Standards Bureau, **Mr. Keck** stated the division has had great success in regards to HB 592 which was intended to streamline and simplify the resolution of employment disputes. By incorporating a formal mediation process, disputes were resolved before going to hearings. This reduces costs significantly.

Due to the fact that a WC Actuary would be too expensive for the division to employ, **Mr. Keck** explained decision package (DP) 3 is a request for funds to contract with a National WC Actuary Company for their services when necessary.

Mr. Keck stated DP 2 is a request for 1 FTE to cross match with the department of revenue each year to verify independent contractor status with regards to filing an income tax schedule C showing income. This information would be used in allowing independent contractor exemption from paying WC insurance, and to lend integrity and protection to employers using independent contractors and to insurers insuring independent contractors for liability.

EXHIBIT (jch20a03)

DP 2 also requests 1 modified FTE to become permanent to monitor professional employee organizations and requests 2 modified FTE's to become permanent in the safety inspections and training

department. He touched briefly on the metal mining and coal mining incidence rates in the Safety and Health Bureau.

SEN. CHRISTIAENS asked about the marital status issue of hiring spouses to work together. **Mr. Keck** replied there is a bill being presented now to make hiring spouses in the same workplace no longer marital discrimination.

REP. PATTISON asked for further information on the types of injuries involved in workers' compensation claims. **Mr. Keck** responded any injury in the workplace or occupational disease can be cause for a claim. The WC insurance covers the employers and protects them from court claims.

CHAIRMAN FISHER asked the minimum age for a youngster to begin working. **Mr. Keck** will get the information for the committee.

EXHIBIT (jch20a04)

SEN. ZOOK complimented the Division on the work they have done on the human rights issues.

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PUBLIC TESTIMONY

Ms. Margaret Morgan, Helena, encouraged the committee's continued support to maintain the current level of services for the Human Rights Bureau. She was involved in the project from the beginning and feels it is in the best interest of the people of Montana.

Mr. Chris Gallus, Lobbyist and Attorney, Missoula, appearing on behalf of himself extended praise for the Human Rights Commission with the task set before them in SB 350. He urged the committee to continue to fund the Commission to enable them to continue the good work.

Mr. Byron Roberts, Montana Building Industries Association, represents 1500 builders statewide and spoke to the need for added oversight in the independent contractor exemption. He feels the department needs additional help to screen the 25,000 exempt contractors. He encouraged the support of the committee.

Mr. Webb Brown, Montana Chamber of Commerce, stated Jerry Keck and his department can be considered business's best friend. Sometimes he says "no" but he is very open to working with the Chambers on issues.

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Mr. Brown went on to state there has been tremendous success in the area of Human Rights to the credit of the Bureau. He specifically commented on the reduction of the average processing time and getting to a final conclusion.

CHAIRMAN FISHER asked for the definition of an independent contractor. **Mr. Keck** responded an independent contractor is someone who is engaged in their own independent trade, profession, or business, and they are free from the control or direction of another person. He gave a few examples for further understanding.

EXHIBIT (jch20a05)

Mr. Keck briefly touched on the funding requests as he closed. **SEN. CHRISTIANS** asked the cost of hiring an actuary for the department. **Mr. Keck** responded the salaries run \$80,000 to \$100,000/year and he did not feel an actuary in another state department could be used.

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WORKERS' COMPENSATION COURT

Judge Mike McCarter, Workers' Compensation Court, went over the information distributed to the committee.

EXHIBIT (jch20a06)

Judge McCarter stated the Workers' Compensation Court (WCC) has been in existence since 1975 and was expanded in 1999. He discussed the jurisdiction, staffing, accomplishments, geographical areas covered and the proposed budget. He included information on a workload snapshot showing the numbers of petitions, trials and hearings, settlement conferences, and decisions from 1993 through 2000. HB 592 has increased the caseload due to the fact that Occupational Disease (OD) cases are now heard at the court level and Independent Contractor cases, which are heard first in the Department of Labor, if not resolved go to the Court.

Judge McCarter discussed the budget requests. There are no changes in the number of employees. Operating expenses are based on FY 00 expenditures. There is an increase in rent, and funding requested for his attendance at the Judicial College. They are also requesting increased funds for travel costs and court

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reporters due to the expected increase in caseload. **Judge McCarter** pointed out that the court is paid for by the insurers.

SEN. CHRISTIAENS asked if any cases had been heard yet regarding latex gloves. **Judge McCarter** has not seen one in the court yet; however, they may have had some settled before it got to the court. **CHAIRMAN FISHER** asked about the asbestos cases in the Libby area. **Judge McCarter** stated he felt those were being handled in state court and district court; there are statute of limitations with those cases; therefore, they do not come to the Workers' Compensation Court. He added that all workers' compensation cases have to go to the WC Court unless they are outside of the Workers' Compensation Act. The asbestos cases were so old they were not covered under the WC Court.

SEN. CHRISTIAENS complimented the Department of Labor on their precise presentations.

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Mr. Jim Hill, Administrator, Unemployment Insurance Division, spoke briefly about his budget. He stated the program is an insurance program designed to provide temporary assistance for those workers who are unemployed through no fault of their own. He believes it is an economic stabilization program and distributed information to support his statement.

EXHIBIT (jch20a07)

The brief statistics showed the amounts in the committee members' home counties paid in unemployment insurance benefits for the calendar year 2000. The total amount statewide returned to the communities was \$56,252,411. In his home county of Lincoln County, the timber industry has decreased significantly bringing unemployment to a staggering rate of over 10%. He feels unemployment insurance assists not only the families but also those local businesses impacted by the economic depression.

There is an LFD issue outlined with his budget request of \$86,000 in computer replacements which were delayed during the base year. **Mr. Hill** stated this amount includes the regular replacement of computers and printers as well as software, surge protectors, token rings, and repair parts. The Division stretches out the replacement cycle for computers to 5 years due to limited federal funds. In further discussion **Mr. Hill** stated there are no general funds requested; their funds come from a payroll tax that goes into the federal government and is returned to the State of Montana.

There was further discussion about the impact on the trust fund of the extension for unemployment insurance payments to the miners of Silver Bow County, and the impact expected for the whole state in 2001 and 2002.

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Mr. Hill believed the trust fund could be affected by the recent bill passed for the Silver Bow miners if other communities are hit with high unemployment. However, if the trust fund drops to a certain level, it triggers a rate increase to the employers. He stated it is not possible to ask for more money from the federal government; therefore, additional workload, etc., has to be funded at the state level.

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Ms. Tammy Peterson, Administrator, Centralized Services Division, distributed information on the Centralized Services Division (CSD), and the Commissioner's Office.

EXHIBIT (jch20a08)

Ms. Peterson went over the organizational chart and the services provided. They have administratively attached the Board of Labor Appeals to the Commissioner's Office. She outlined some of the accomplishments of the CSD and offered statistics in open cases, hearings, personnel and training, fiscal support, and technology support.

Ms. Peterson presented their budget requests which are in two parts. They are funded in part by HB 2 and the remainder of their internal services through HB 576. They will be asking for approval of their rate between 9%-10% in the next biennium.

A full report to the Governor prepared by the Montana Department of Labor and Industry is a part of these minutes.

EXHIBIT (jch20a09)

CHAIRMAN FISHER adjourned the hearing.

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ADJOURNMENT

Adjournment: 9:30 A.M.

REP. STANLEY FISHER, Chairman

SANDRA WHITAKER, Secretary

SF/SW

EXHIBIT (jch20aad)